THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on : 16.04.2007

+ **WP(C) 9834/2005**

PUHAZH G.P. ... Petitioner

- versus -

JAWAHARLAL NEHRU UNIVERSITY ... Respondent
REPRESENTED BY THE VICE CHANCELLOR

Advocates who appeared in this case:
For the Petitioner : Mr P.V. Dinesh with Mr Joy Scaria and Mr Zulfickar Ali.
For the Respondent : Mr S.C. Dhanda.

CORAM:-
HON'BLE MR JUSTICE BADAR DURREZ AHMED

1. Whether Reporters of local papers may be allowed to see the judgment?

2. To be referred to the Reporter or not?

3. Whether the judgment should be reported in Digest?

BADAR DURREZ AHMED, J(ORAL)

1. The petitioner is seeking admission to the Ph.D Programme offered by the respondent / University. He falls short by 0.17 grade points.

2. What happened was that the petitioner undertook the M.Phil course in the said university. The said course requires the submission of a dissertation. This has to be evaluated as per the ordinance relating to the award of the Master of Philosophy Degree. Clause 11 of the said Ordinance reads as under :-

"11. **Evaluation**

11.1 Subject to confirmation by the Committee, the method of evaluation in the courses leading to the M.Phil. degree shall be prescribed and assessment conducted by the Department/Centre concerned.

11.2 The dissertation shall be examined by two examiners atleast one of whom shall be a person not on the staff of the University and or on the Committee of the Centre/Board of the School concerned to be appointed by the Executive Council on the recommendations of the Academic Council, the Board and the Committee for Advanced Studies and Research of the School concerned.

Provided that in case of difference of opinion between the two examiners with regard to the evaluation of dissertation, the Dean of the School shall arrange to have placed before the Committee the evaluation reports of both the examiners for its consideration.

Provided further that after due consideration of the reports, the Committee may recommend the appointment of a third examiner (not connected with the University) in the manner laid down in clause 11.2 above for the evaluation of the dissertation.

Provided further that if the recommendation of the third examiner is in the negative, the student concerned shall not be awarded the degree of M.Phil.

11.3. The courses and dissertation of the student shall be graded on a ten point scale, that is :

Grade	Grade Point
A+	9
A	8
A-	7
B+	6
B	5

B-	4
C+	3
C	2
C-	1
F	Fail

There shall be no rounding off of SGPA/CGPA/FGPA.

11.4 The examiner while recommending the approval of the dissertation for the award of M.Phil. degree shall also award grade for the dissertation according to the grading system in clause 11.3 above. The final grade for the dissertation shall be determined by taking the average of the grade awarded by two examiners.

11.5 A student in order to be eligible for the award of Master of Philosophy degree of the University must have a minimum Cumulative Grade Point Average (CGPA) of 5.5. (inclusive of dissertation and course work).

Note: The question whether the viva-voce examination in respect of an M.Phil. dissertation submitted by the student be conducted or not, shall be decided by the respective boards of studies of the Schools concerned. Where the Board decides to hold the viva-voce examination, the grade for dissertation shall be jointly awarded by the two examiners at the time of the viva-voce examination.

Note : The above (amended) clause shall apply to students admitted to the M.Phil. programme from July 1989 onwards."

3. The petitioner's dissertation was evaluated by two examiners as provided in clause 11.2 of the said ordinance. The internal examiner awarded the petitioner the grade of A- which is equivalent to grade point 7. The external examiner, however, awarded the grade of C+ equivalent to grade point 3. As a result of this, the petitioner became entitled to the award of the M.Phil decree.

The learned counsel for the petitioner submitted that since there was a difference in the grades awarded by the two examiners, it would amount to "difference of opinion" as appearing in the first proviso to clause 11.2 of the ordinance. And, therefore, it would be necessary for the Committee to send the dissertation for evaluation by a third examiner to be appointed in the manner laid down in clause 11.2. The petitioner is, therefore, seeking a direction that his dissertation, in view of this alleged difference of opinion, be sent to a third examiner so that proper grades be awarded to him. He submits that, in case, the grades are awarded by the third examiner then the average of the best between the first and second examiners and the third examiner would be taken and that grade would be awarded to the petitioner. He submits that the petitioner is confident that he would receive a higher grade than that awarded by the external examiner and since the margin of difference between the requirement for the Ph.D. course and what the petitioner has achieved is very small, he would be able to cover that deficit.

4. Mr Dhanda, who appears on behalf of the University, submits that the learned counsel for the petitioner is misreading the provision. He submits that the proviso to clause 11.2 would come into play only if there is a difference of opinion between the internal examiner and the external examiner with regard to the acceptance of the dissertation. He submits that the provision would apply where one examiner recommends the acceptance and the other examiner

recommends the rejection of the dissertation. He submits that in the present case this is not what has happened. Both the examiners have recommended the acceptance of the dissertation but have awarded different grades. Accordingly, he submitted that it is not the proviso to clause 11.2 that would apply but the provisions of clause 11.4 which would be applicable.

5. I have considered the submissions made by the learned counsel for the parties and I am in agreement with the submissions made by Mr Dhanda. It is apparent upon a plain reading of the provisions of clause 11 of the ordinance that difference of opinion that is mentioned in the proviso to clause 11.2 must be read in the context of clause 11.2 itself. A reading of the other provisos also indicates that reference in clause 11.2 is with regard to the acceptance or rejection of the dissertation and does not relate to the difference of opinion with regard to the grades that are awarded by the examiners when both of them recommend acceptance of the dissertation. Clause 11.4 is very clear on this point and it provides that grades are to be given by the examiner while recommending approval of the dissertation. In other words it has reference only to grades which are given by the examiner while recommending the approval and not in a case of rejection of the dissertation. In the present case, both the examiners recommended approval of the dissertation and gave different grades. Clause 11.4 clearly indicates that the final grade for the dissertation shall be determined by taking the average of the grades awarded by

the two examiners. This provision does not permit any confusion inasmuch as a plain reading expresses the intention very clearly that where both examiners recommend approval of the dissertation, the final grade that is to be awarded to the candidate is to be determined by taking the average of the grades awarded by each of the two examiners. In the present case one examiner has awarded A- and the other examiner has awarded C+. Thus, the average of the two has to be taken. That is precisely what has been done by the university and the M.Phil has been awarded to the petitioner accordingly.

6. In case the petitioner is aggrieved by the fact that he is not being granted admission to the Ph.D programme because of a marginal shortfall in the requirement, it is always open to the petitioner to make an application before the Academic Council of the university. The learned counsel for the petitioner drew my attention to annexure P-5 which is a representation made to the Dean through proper channel and is dated 19.4.2004. He submitted that this representation is actually an application made to the Academic Council. He also submitted that the endorsement at page 22 of the paper book shows that his case has been strongly recommended and forwarded by Mr Y.K. Tyagi who is the Chairman of the Centre for Studies In Diplomacy, International Law and Economics School of International Law, Jawaharlal Nehru University, New Delhi.

7. Mr Dhanda submits that this is not an application to the Academic Council and if an application is made directly to the Academic Council, the same shall be considered by the said Council inasmuch as the Council does have the power to relax any of the provisions of the Academic Ordinance. In this light, it would be appropriate if the petitioner moves a fresh application before the Academic Council seeking such relaxation. In case such an application is moved, the Academic Council shall consider it in the light of his academic record.

This writ petition stands disposed of.

BADAR DURREZ AHMED
(JUDGE)

April 16, 2007
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